WP(C) 1971/2007
BEFORE
THE HON'BLE MR. JUSTICE RANJAN GOGOI
JUDGMENT AND ORDER
(ORAL)

An order of suspension dated 13.4.2007 passed against the petitioner has been put to challenge in the present writ petition.

2. Having regard to the fact that all requisite materials are before the Court and all contesting parties are duly represented, the Court is of the view that the writ petition should be disposed of at this stage.

3. A reading of the order dated 13.4.2007 would go to show that the suspension of the petitioner was felt necessary by the authority on account of his involvement in a Police Case registered and numbered as Dispur PS Case No.396 of 2007. In the order of suspension it has also been recited that the incident in question had received wide publicity in several newspapers published from Guwahati.

4. The scope of the writ petition being what has been noticed and the grounds for suspension being the pendency of the Criminal Case against the petitioner, the Court had thought it appropriate to call for the Case Diary of Dispur PS Case No.396 of 2007. The Case Diary, as placed before the Court, was duly perused on 17.5.2007. On the said date, the Court passed an order directing the Senior Superintendent of Police,Kamrup, Guwahati to go through the Case Diary and express his views as to whether the investigation of the said Police Case has been carried out in a proper manner and to suggest the necessity of any direction with regard to the investigation of the said Police Case. Accordingly, the matter was fixed for consideration today.

5. At the hearing today the learned Government Advocate has placed before the Court the report of the Senior Superintendent of Police, Guwahati dated 22.5.2007. The said authority, after reciting the details of the investigation carried out including the names of the persons examined by the Investigating Officer, has recorded his opinion that till date sufficient materials or evidence could not be collected against the accused writ petitioner. The Senior Superintendent of Police, Kamrup, Guwahati has further opined that no specific direction for carrying out the investigation in any particular manner is required, which conclusion is suggestive of the fact that the investigation is on the right track.

6. The petitioner has been placed under suspension on account of pendency of the Criminal Case, wherein he is the accused. The report of the Senior Superintendent of Police, Guwahati is to the effect that sufficient materials could not be collected against the petitioner till date. A period of almost 2(two) months has expired since the institution of the F.I.R. and the commencement of the investigation of the Police Case. In such circumstances, when the institution and pendency of the Criminal Case is the sole basis for the suspension of the petitioner, the more reasonable reasonable view would be that there is no further justification for the suspension of the petitioner.

7. Accordingly, the Court is of the view that this writ petition should be allowed and the impugned suspension order dated 13.4.2007 should be interfered with, which I hereby do. However, it is made clear that the present order will, certainly, not be construed as an impediment in carrying out further investigation of the case and passing such other further orders including initiation of the departmental proceeding against the petitioner, if considered necessary by the competent authority.